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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,436	01/23/2004	Kris A. Weger	ZSI 0106 PUS	6828

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EXAMINER	
FERGUSON, MICHAEL P	

ART UNIT	PAPER NUMBER
3679	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/763,436	WEGER ET AL.	
	Examiner	Art Unit	
	Michael P. Ferguson	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *4-12,19 and 20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 13-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 May 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *01/23/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species 1, Figures 1A-2, claims 1-3 and 13-18, in the reply filed on April 29, 2005 is acknowledged.

2. Claims 4-12, 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 29, 2005.

Claim Objections

3. Claims 1 and 13 are objected to because of the following informalities:

Claim 1 (line 2) recites "the clamp comprising". It should recite --the clamp assembly comprising--.

Claim 1 (line 16) recites "each clamp half being". It should recite --each clamp half is--.

Claim 13 (line 4) recites "the clamp comprising". It should recite --the clamp assembly comprising--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kindorf et al. (US 3,486,726).

As to claim 1, Kindorf et al. disclose an adjustable clamp assembly for securing cylindrical members **14** of various size to an elongate U-shaped support channel **16**, the clamp assembly comprising:

a unitary first clamp half **12** having a first end slidably engageable to the support channel, a second end spaced apart from the channel, and an inner surface for mating engagement with the cylindrical member;

a unitary second clamp half **12** having a corresponding first end slidably engaged to the support channel, a corresponding second end, and an inner surface opposing the first clamp half inner surface, an attachment region **17** formed at the second end of each of the first and second clamp halves for coupling the first and second clamp halves together; and

a fastener **10,11** cooperating with the first and second clamp half attachment regions to effectuate fastening engagement between the first and second clamp halves;

wherein the cylindrical member is interposed between the first and second clamp half inner surfaces and each clamp half is slidably movable along a channel axis toward one another until the opposing inner surfaces matingly engage the cylindrical member to sufficiently secure the cylindrical member to the U-shaped channel (Figure 1).

Kindorf et al. fail to disclose an assembly comprising first and second clamp halves formed from plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Kindorf et al. to have first and second clamp halves formed of plastic as such practice is a design consideration within the skill of the art.

As to claim 2, Kindorf et al. disclose an adjustable clamp assembly wherein the inner surface of each clamp half **12** comprises a grip bump **13** (curved gripping portion **13**) shaped and positioned to provide size adjustment capability for cylindrical members **14** of various size (Figure 1).

As to claim 3, Kindorf et al. disclose an adjustable clamp assembly wherein the cylindrical members **14** of various size make direct contact with at least the support channel **16**, the grip bump **13** (curved gripping portion **13**) of the first clamp half **12**, and the grip bump **13** (curved gripping portion **13**) of the second clamp half **12** (Figure 1).

As to claim 13, Kindorf et al. disclose an adjustable clamp assembly for securing cylindrical members **14** of various size to an elongate U-shaped support channel **16** without the need for a cushion insert disposed between the clamp and the cylindrical member, the clamp assembly comprising:

a unitary first clamp half **12** having a first end slidably engageable with a support channel along a channel axis, a second end spaced apart from the channel, and an inner surface having a grip bump **13** (curved gripping portion **13**) shaped and positioned for mating engagement with cylindrical members of various size;

a unitary second clamp half **12** having a corresponding first end slidably engageable with the support channel along the channel axis, a corresponding second end, and an inner surface opposing the first clamp half inner surface having a grip bump **13** (curved gripping portion **13**) shaped and positioned for mating engagement with cylindrical members of various size, each clamp half having an attachment region **17** formed at the second end for coupling the first and second clamp halves together; and

a fastener **10,11** cooperating with the attachment regions to effectuate fastening engagement between the first clamp half and the second clamp half;

wherein the cylindrical members of various size can be interposed between the first and second clamp half inner surfaces such that each clamp half is slidably movable toward one another along the channel axis until the grip bump of the first and second clamp halves directly engage with cylindrical members of various size sufficiently securing the cylindrical members of various size to the support channel (Figure 1).

Kindorf et al. fail to disclose an assembly comprising first and second clamp halves formed from plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Kindorf et al. to have first and second clamp halves formed of plastic as such practice is a design consideration within the skill of the art.

As to claim 14, Kindorf et al. disclose an adjustable clamp assembly wherein the cylindrical members **14** of various size are secured to the support channel **16** by at least three contact points, the at least three contact points comprising the grip bump **13** (curved gripping portion **13**) of the first clamp half **12**, the grip bump **13** (curved gripping portion **13**) of the second clamp half **12**, and the support channel **16** (Figure 1).

As to claim 15, Kindorf et al. disclose an adjustable clamp assembly wherein the first end of each clamp half **12** comprise a neck and shoulders **25** for cooperating with the support channel **16** to effectuate sliding engagement (Figure 1).

As to claim 16, Kindorf et al. disclose an adjustable clamp assembly wherein the attachment region **17** of each clamp half **12** comprises an aperture for partially inserting the fastener **10** therethrough to couple the first clamp half to the second clamp half (Figure 1).

As to claim 17, Kindorf et al. disclose an adjustable clamp assembly wherein the fastener **10,11** comprises a nut and bolt assembly (Figure 1).

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kindorf et al. in view of Dunklee (US 3,419,942).

As to claim 18, Kindorf et al. fail to disclose an assembly wherein the first clamp half aperture comprises a boss for housing a nut, the boss having a detent formed therein for snap fit retention of the nut, the second clamp half aperture having a finger for retaining a bolt.

Dunklee teaches a clamp assembly wherein a first clamp half **216** aperture comprises a boss for housing a nut (not labeled), the boss having a detent (boss wall)

formed therein for snap fit (press fit) retention of the nut, a second clamp half **218** aperture having a finger (boss wall) for retaining a bolt **26**; the boss in the first clamp half and the finger in the second clamp half providing for a more secure engagement between the first clamp half and the second clamp half. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Kindorf et al. to have a first clamp half aperture having a boss, and a second clamp half aperture having a finger as taught by Dunklee in order to provide for a more secure engagement between the first clamp half and the second clamp half.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to clamp assemblies:

Horstmann (US 4,251,844), Ismert (US 6,446,915) and Clarke (US 3,226,069) are cited for pertaining to clamps comprising first and second clamp halves.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MPF
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